

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION,
HP INC., DELL INC., DELL TECHNOLOGIES INC.,
ASUSTEK COMPUTER INC., ASUS GLOBAL PTE. LTD.,
Petitioners

v.

LITL LLC,
Patent Owner.

PROTECTIVE ORDER

This protective order governs the treatment and filing of confidential information, including documents and testimony.

1. Confidential information is any information that the designating party believes in good faith is not generally known to others that the designating party (i) would not normally reveal to third parties except in confidence or with steps undertaken to maintain that confidence, or (ii) is information protected by a right to privacy under federal or state law or any other applicable privilege or right related to confidentiality or privacy, and such information shall be clearly marked “CONFIDENTIAL MATERIAL.”

2. Confidential Outside Attorneys’ Eyes Only information is any information that the designating parties believes in good faith is not generally known to others and has significant competitive value, such that the unrestricted disclosure to others, including in-house counsel, would create a substantial risk of serious injury and that the designating party (i) would not normally reveal to third parties except in confidence or with steps undertaken to maintain that confidence, or (ii) is information protected by a right to privacy under federal or state law or any other applicable privilege or right related to confidentiality or privacy, and such information shall be clearly marked “CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY MATERIAL.”

3. Access to confidential information is limited to the following individuals who have

executed **Exhibit A** to this order:

- (A) Parties. Persons who are owners of a patent involved in the proceeding and other persons who are named parties to the proceeding.
- (B) Party Representatives. Representatives of record for a party in the proceeding.
- (C) Experts. Retained experts of a party in the proceeding who further certify in **Exhibit A** that they are not a competitor to any party, or a consultant for, or employed by, such a competitor with respect to the subject matter of the proceeding.
- (D) In-house counsel. In-house counsel of a party.
- (E) Support Personnel. Administrative assistants, clerical staff, court reporters and other support personnel of the foregoing persons who are reasonably necessary to assist those persons in the proceeding shall not be required to sign **Exhibit A**, but shall be informed of the terms and requirements of the Protective Order by the person they are supporting who receives confidential information.
- (F) The Office. Employees and representatives of the United States Patent and Trademark Office who have a need for access to the confidential information shall have such access without the requirement to sign **Exhibit A**. Such employees and representatives shall include the Director, members of the Board and their clerical staff, other support personnel, court reporters, and other persons acting on behalf of the Office.

4. Access to Confidential Outside Attorneys' Eyes Only information is limited to the persons identified in Paragraphs 3(b)-(c), (e)-(f).

5. Employees (e.g., corporate officers), consultants, or other persons performing work for a party, other than in-house counsel and in-house counsel's support staff, who sign **Exhibit A** shall be extended access to confidential information only upon agreement of the parties or by order of the Board upon a motion brought by the party seeking to disclose confidential information to that person. The party opposing disclosure to that person shall have the burden of proving that such person should be restricted from access to confidential information.

6. Persons receiving confidential information shall use reasonable efforts to maintain the confidentiality of the information, including:

(A) Maintaining such information in a secure location to which persons not authorized to receive the information shall not have access;

(B) Otherwise using reasonable efforts to maintain the confidentiality of the information, which efforts shall be no less rigorous than those the recipient uses to maintain the confidentiality of information not received from the disclosing party;

(C) Ensuring that support personnel of the recipient who have access to the confidential information understand and abide by the obligation to maintain the confidentiality of information received that is designated as confidential; and

(D) Limiting the copying of confidential information to a reasonable number of copies needed for conduct of the proceeding and maintaining a record of the locations of such copies.

7. Persons receiving confidential information shall use the following procedures to maintain the confidentiality of the information:

(A) Documents and Information Filed With the Board.

(i) A party may file documents or information with the Board along with a Motion to Seal. The Motion to Seal should provide a non-confidential description of the nature of the confidential information that is under seal, and set forth the reasons why the information is confidential and should not be made available to the public. A party may challenge the confidentiality of the information by opposing the Motion to Seal. The submission shall be treated as confidential and remain under seal, unless the Board determines that the documents or information do not to qualify for confidential treatment. The information shall remain under seal unless the Board determines that some or all of the information does not qualify for confidential treatment.

(ii) Where confidentiality is alleged as to some but not all of the information submitted to the Board, the submitting party shall file confidential and non-confidential versions of its submission, together with a Motion to Seal the confidential version setting forth the reasons why the information redacted from the non-confidential version is confidential and should not be made available to the public. A party may challenge the confidentiality of the information by opposing the Motion to Seal. The non-confidential version of the submission shall clearly indicate the locations of information that has been redacted. The confidential version of the submission shall be filed under seal. The redacted information shall remain under

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